

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KERRY L. SWITZER, JR.,

Plaintiff,

v.

**VENANGO COUNTY HUMAN
SERVICES,**

Defendant.

Case No. 1:22-cv-0245

MEMORANDUM ORDER

This action was received by the Clerk of Court on August 4, 2022. [ECF No. 1 (Complaint)]. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff Kerry L. Switzer, Jr., has alleged violations of his “HIPAA rights.” (ECF No. 1, p. 1). Switzer alleges that a “Jake McVoy” contacted him regarding an “anonymous call concerning my health,” which Switzer claims was a “direct violation of my HIPAA rights and their privacy policy ‘video evidence.’” (*Id.*, p. 3). He seeks three million dollars in damages. (*Id.*) To date, service of Switzer’s Complaint has not been effectuated.

On January 10, 2023, Chief Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that Switzer’s Complaint be dismissed for failure to satisfy the pleading standards set forth in Federal Rule of Civil Procedure 8. [ECF No. 7]. This Rule requires a complaint to include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). And although such pleading standards are

“less stringent” when applied to pro se litigants, the Federal Rules still apply. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972). Judge Lanzillo concluded that Switzer’s vague assertion failed to satisfy this pleading standard and recommended dismissal of the Complaint. (ECF No. 7, p. 2). Further, and as noted by the Magistrate Judge, to the extent Switzer alleges a HIPAA violation, such a claim would fail because that statute does not provide for a private right of action. *See, e.g. Hemingway v. Simmer*, 2022 WL 4244611, at *3 (W.D. Pa. Sep. 15, 2022).

Switzer was given until January 27, 2023, to file Objections to the Report and Recommendation, but did not do so. Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2). The Court finds no grounds to do so here.

Thus, after *de novo* review of the Complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 1st day of February, 2023;

IT IS ORDERED that the Complaint [ECF No. 1] is DISMISSED.

IT IS FURTHER ORDERED that the Report and Recommendation of Chief Magistrate Judge Lanzillo, issued on January 10, 2023, [ECF No. 7] is adopted as the opinion of the Court for substantially the same reasons stated therein.

The Clerk of this Court is directed to mark this case CLOSED on the Court’s docket.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge